



Jul 1 2009 6:07PM

MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

William Plache
Phone: (212) 788-1574
Fax: (212) 788-1619
E-mail: wplache@law.nyc.gov

July 1, 2009

By E-Mail

Hon. Shira A. Scheindlin
United States District Judge
Southern District of New York
500 Pearl Street, Room 1620
New York, New York 10007

Re: *In re Methyl Tertiary Butyl Ether (MTBE) Products Liability Litigation*,
MDL No. 1358, Master File No. 1:00-1898 (SAS)
City of New York v. Amerada Hess, et al., 04 CV 3417 (SDNY)

Dear Judge Scheindlin:

I write in response to Mr. Sacripanti's letter of today in which ExxonMobil continues to claim that the New York City Water Board ("Water Board") and New York City Municipal Water Finance Authority ("Finance Authority") are the real parties in interest to this litigation. In continuing to pursue this argument, ExxonMobil ignores the declarations of the Water Board's Secretary, and the Water Authority's Chief Executive Officer in which both affirm that: (1) neither the Water Board nor the Water Authority approves individual Water Projects; (2) neither the Water Board nor the Water Authority has a role in planning, designing or constructing individual Water Projects; and (3) neither the Water Board nor the Water Authority has any material interest in this case. See Declaration of Albert F. Moncure, Jr., dated June 29, 2009 and Declaration of Alan Anders, dated June 30, 2009. The definitive statements in these two declarations should put an end to all inquiry into this issue.

At the conference on June 25, the City agreed to provide from the Water Board and the Finance Authority to answer the question whether either entity has "the obligation to approve capital projects before they're undertaken." Transcript of June 25, 2009 conference, at 44: 21-24. The City has submitted two declarations affirming that the Water Board and the Water Authority do not approve individual capital projects before they are undertaken. Instead, as explained by Mr. Anders, the City provides a list of the Water Projects that have been

approved by the City as part of the City capital budget. That list becomes an amendment to Appendix A of the Financing Agreement between the City, the Water Authority, and the Water Board. The Water Authority does not evaluate or approve the individual projects on that list. Anders Declaration at ¶ 7. Rather, representatives of the Authority and the Board merely sign the list, thus indicating their acknowledgment that the listed items must be funded if the City seeks payment for their costs. Id.; see also Moncure Declaration at ¶ 6. A copy of the most recent amendment to Appendix A, dated May 31, 2007, is attached hereto. Because the Moncure and Anders Declarations are clear that neither the Water Board nor the Finance Authority approve individual projects, contract for individual projects or plan or design individual projects, the Court's question is answered, and the issue is closed.

ExxonMobil, not to be deterred by the facts, continues its attempt to derail this trial by pursuing this issue further, and raising new arguments. Those arguments demonstrate a lack of understanding of how costs associated with constructing and operating Water Projects are appropriated, and a refusal to accept the declarations submitted by the City on behalf of the Water Authority and the Water Board. Further, ExxonMobil now also claims that the longstanding process through which Water Projects are funded violates the State Constitution. ExxonMobil is wrong.

First, the City's interest in this case is demonstrated by the explicit statements, by both Mr. Moncure and Mr. Anders, that Water Projects, such as a treatment facility for MTBE at Station 6, are approved and paid for through the City's budget process. See Moncure Declaration ¶ 6 and Anders Declaration ¶¶ 5-6. The costs associated with DEP's proposed budget, including Water Projects, are no different from the costs of all other agencies during the budget process, as all costs incurred by the City are ultimately passed on to residents of the City. In devising the budget, it is the City that has an interest in keeping the overall budget as low as possible. As the City has repeatedly noted, that goal can be achieved with respect to the damage caused to Station 6, by recovering the costs of MTBE treatment from ExxonMobil and the settling defendants. Any amount recovered from ExxonMobil will not be bonded by the Water Authority, will not be reflected in rates established by the Water Board, and will not ultimately be paid by City residents. See Moncure Declaration ¶ 8; quoting Lease § 8.1(b).

ExxonMobil argues that the City has no interest in this case because the costs are covered, and that it will be "paid" in full by the Water Board. Sacripanti Letter at 2. By ExxonMobil's reasoning, the City has no interest in any possible litigation seeking monetary damages, because all expenses in the City budget are ultimately paid by others. Moreover, the flaw in ExxonMobil's reasoning is underscored by the fact that, under ExxonMobil's theory, neither the Water Board nor the Finance Authority could have an interest in this case, as any costs it pays to the City are covered by the ratepayers. The rates charged by the Water Board are set as a matter of law. See Moncure Declaration ¶¶ 7 and 8 (citing N.Y. Pub. Auth. Law § 1045-j; sections 8.1(a) and (b) of the Lease Agreement and Section 6.1 of the Financing Agreement). The Water Authority could have no interest, because the Water Board will pay the principal and interest on the bonds it issues. See Moncure Declaration ¶ 7. The Water Board would have no interest because it merely sets water rates to cover the costs of Water Projects, and passes the fees on to the consumers. Significantly, neither the Water Board nor the Authority has been a

plaintiff in an action to recover expenses associated with operating the City's water system. Moncure Declaration ¶ 10, Anders Declaration ¶ 11.

The structure of financing water projects merely creates an entity through which money flows from the City residents to the City to fund a service provided by the City. The City must budget the expense of addressing the damage caused by defendants, and balance the costs of treatment against the other pressing items in the budget. It is the City that makes these decisions and the City that is the party in interest here.

ExxonMobil also argues that the longstanding agreement between the Water Board, the Finance Authority and the City violates the requirement under the State Constitution that bonds issued by a city be backed by its full faith and credit. N.Y. Constitution, Article VIII, Section 2. This too is wrong for a number of reasons.

The New York State Supreme Court, in a proceeding challenging the constitutionality of a bond issuance by the Water Authority, including claims that it violated Article VIII, Section 2, addressed the issues raised by ExxonMobil. See Schmidt v. Koch, Index No. 13138/89 (Sup. Ct. N.Y. County 1989), a copy of which is attached as Exhibit B. Although the case was dismissed on laches grounds, the Court specifically stated, "lest it be concluded that this proceeding is being dismissed on the basis of some legal technicality, the Court states for the record that, were it to consider the merits of the petitioner, the claims therein would be dismissed as lacking in substance." Id. at 13.

The Court recognized, "The bonds issued by the Water Authority do not constitute indebtedness of New York City, since there is a statutory disclaimer that New York City is not liable on the bonds. There can be no violation of Article VIII..." Id. at 15, internal citation omitted. Thus the question of Constitutionality with respect to Article VIII, Section 2 is determined by the fact that the bonds are not City bonds. See also Schultz v. N.Y. State Legislature, 244 A.D.2d 146 (3rd Dep't 1998). In that case, the Court addressed the constitutionality of the creation of the Transitional Finance Authority ("TFA"). The TFA issues bonds at the request of the Mayor, based on a declaration of need. The Court held that the bonds of the Authority do not constitute indebtedness of the City, and ruled that the Authority was constitutional.

ExxonMobil relies on the State Comptroller's Report to the Governor on S-9660 (the New York City Municipal Water Finance Authority Act), dated July 31, 1984, to argue that because the Finance Authority does not review and approve individual Water Projects, it is a "mere instrumentality of the City" and thus violates the State Constitution. A copy of the Report is attached to the Sacripanti letter as Exhibit A. In that Report, however, the State Comptroller does not indicate in any way that the Finance Authority must review individual projects or will otherwise be deemed a "mere instrumentality of the City," as ExxonMobil alleges. To the contrary, the State Comptroller appeared to be concerned with the makeup of the Finance Authority, which is a matter of law. The Comptroller, in fact, concluded that the inclusion of the DEC Commissioner of DEC and a member appointed by the Governor "should hopefully preclude the Water Authority from being deemed an entity of the City and, thus, will avoid this constitutional question."

Significantly, the State Supreme Court, in Schmidt v. Kock, answered the State Comptroller's concerns on this issue as well, as it noted that the close relationship between the City, the Water Board and the Water Authority was of no relevance: "the fact that the Mayor plays a large role in the designation of the members of both boards is legally insignificant..." Id. at 14. "The statutory scheme complies with the letter of the constitutional requirement, which is sufficient." Id. This subsequent court decision addressing the makeup of the Finance Authority demonstrates that the State Comptroller's musings, issued over 25 years ago, on unexplored legal questions, have minimal value.

Thus, there is simply no basis for ExxonMobil's claim that under the State Constitution, the Finance Authority must evaluate and approve individual projects.

Finally, ExxonMobil relies on a 2006 State Comptroller Audit to claim that the City must "obtain reasonable assurance about the reasonableness of [the] costs" of approved projects. Scaripanti Letter at 5, Sacripanti Exhibit D. The Comptroller Audit is not a statement of the law. Moreover, the Finance Authority, in fact, responded to the Comptroller Audit, and demonstrated that its conclusions on this, and other points, were incorrect. See Letter from Mark Page, Finance Authority, to Carmen Maldonado, Office of the State Comptroller, dated June 27, 2008, a copy of which is attached as Exhibit C. Mr. Page explains:

The Authority's staff is made up of finance professionals. The Authority is not qualified, and under its agreement with the City is not permitted, to substitute its own judgment for that of the City as to whether the costs of water projects are reasonable. The Authority is entitled, and in fact is required, to rely on the professional determinations as well as the procurement, internal controls and accounting systems of the City of New York.

Id. pp. 3-4. Accordingly, the Finance Authority has no expertise or qualifications to review individual Water Projects, and the discussion of this point in the State Comptroller Audit, which was quoted by ExxonMobil, is simply wrong.

As demonstrated in the City's June 24, 2009 letter to the Court, and in the Moncure and Anders Declarations, the Finance Authority and the Water Board have no direct interest in this litigation, and are not proper parties. Rather, the City is the only proper plaintiff.

We look forward to answering any questions you may have at the conference tomorrow.

Respectfully submitted,

William S. Plache

William Plache
Senior Counsel
Environmental Law Division

c: Peter Sacripanti, via email
all parties, via LNFS

EXHIBIT A

Budget Line	Description	Funding	2007	2008	2009	2010	2011
EP-D999	CONSTRUCTION OR ACQUISITION OF A NON-CITY OWNED PUBLIC BETTERMENT	CITY	\$0	\$150	\$0	\$0	\$0
EP-M999	CONSTRUCTION OR ACQUISITION OF A NON-CITY OWNED PUBLIC BETTERMENT	CITY	\$0	\$500	\$0	\$0	\$0
EP-0004	PURCHASE OF EQUIPMENT FOR USE BY THE DEPT. OF ENVIRONMENTAL	CITY	\$14,134	\$30,631	\$7,000	\$9,500	\$7,124
EP-0005	PURCHASE OF EQUIPMENT FOR USE BY THE DEPT. OF ENVIRONMENTAL	CITY	\$963	\$2,188	\$1,000	\$0	\$0
EP-0006	PURCHASE OF ELECTRONIC DATA PROCESSING EQUIP. FOR D.E.P.	NON CITY	\$6,615	\$28,246	\$21,561	\$8,675	\$5,356
EP-0007	PURCHASE OF ELECTRONIC DATA PROCESSING EQUIP. FOR D.E.P.	NON CITY	\$6,000	\$2,000	\$2,000	\$0	\$0
EP-0008	ACQUISITION/RECONSTRUCTION LEASED & OWNED FACILITIES BY DEP.	CITY	\$34,629	\$57,139	\$44,928	\$3,640	\$48,400
EP-0009	MANAGED PAYMENTS FOR PRIVATE GAS UTILITY RELOCATION, DEP. C	CITY	\$29,930	\$32,544	\$38,403	\$38,980	\$37,769
EP-0010	REMEDIAL ACTION AT CLOSED LANDFILLS.	CITY	\$21,755	\$43,623	\$0	\$0	\$0
EP-0011	IMPROVEMENTS FOR WATER CONSERVATION AND MEASUREMENT, CITYWIDE	NON CITY	\$0	\$106,787	\$0	\$0	\$0
SE-0002R	CONST. & RECONSTR. OF SANITARY & COMBINED SEWERS, STATEN ISLAND	CITY	\$3,702	\$0	\$34,000	\$0	\$0
SE-0200	LAND ACQUISITION, STORM WATER MANAGEMENT, STATEN ISLAND	CITY	\$350	\$128,937	\$121,000	\$22,361	\$12,000
SE-0001	CONSTRUCTION & RECONSTRUCTION OF STORM SEWERS, QUEENS	CITY	\$0	\$0	\$0	\$0	\$0
SE-0002	CONS. AND RECONSTR. OF STORM WATER SEWERS, NOT TO EXCEED \$400,000, S.I.	CITY	\$250	\$429	\$0	\$0	\$0
SE-0002K	CONSTRUCTION SERVICES FOR SANITARY AND COMBINED DRAINAGE PLA	CITY	\$2,132	\$100	\$0	\$0	\$0
SE-0002M	CONSTRUCTION AND RECONSTRUCTION OF SANITARY & COMBINED SEWERS	CITY	\$0	\$2,251	\$61,590	\$67,735	\$77,895
SE-0002Q	CONSTR. & RECONSTR. SANITARY & COMBINED SEWERS, MANHATTAN	CITY	\$16,370	\$12,436	\$33,657	\$4,410	\$4,630
SE-0002R	CONSTRUCTION AND RECONSTRUCTION OF SANITARY AND COMBINED SEW	CITY	\$6,385	\$8,507	\$16,622	\$31,721	\$25,903
SE-0002X	CONST. & RECONSTR. OF SANITARY & COMBINED SEWERS, STATEN ISLA	CITY	\$14,412	\$34,038	\$12,146	\$5,997	\$333
SE-0100	PROFESSIONAL SERVICES FOR PREPARATION OF SANITARY & COMBINED SEWERS,	CITY	\$27,924	\$15,631	\$9,403	\$7,197	\$25,904
SE-0166	RECONSTRUCTION, COLLAPSED CEMENT PIPE COMBINED SEWERS, BROOK	CITY	\$18,008	\$9,269	\$4,455	\$27,240	\$400
SE-0200	CONSTRUCTION AND RECONSTRUCTION OF STORM WATER SEWERS, BROOK	CITY	\$688	\$750	\$0	\$54	\$2,368
SE-0200K	CONSTR. & RECONSTR. STORM SEWERS, BROOKLYN	CITY	\$3,513	\$4,500	\$0	\$0	\$0
SE-0200Q	CONSTRUCTION AND RECONSTRUCTION OF STORM WATER SEWERS, MANHATTAN	CITY	\$2,979	\$0	\$240	\$0	\$0
SE-0200R	CONSTRUCTION & RECONSTRUCTION OF STORM SEWERS, QUEENS	CITY	\$2,135	\$4,849	\$4,272	\$3,263	\$3,214
SE-0200X	CONSTRUCTION & RECONSTRUCTION OF STORM SEWERS, STATEN ISLAND	CITY	\$15,637	\$13,866	\$2,392	\$0	\$0
SE-0208	CONSTRUCTION & RECONSTRUCTION OF STORM SEWERS, STATEN ISLAND	CITY	\$21,362	\$11,557	\$19,340	\$46,886	\$71,171
SE-0362	STORM SEWER IN VICTORY BOULEVARD, ETC.	NON CITY	\$2	\$0	\$0	\$42,968	\$15,026
SE-0413	SANITARY SEWERS IN FOREST HILL ROAD, ETC.	CITY	\$1,852	\$1,000	\$1,253	\$0	\$0
SE-0414	STORM SEWERS IN MILTON AVENUE, ETC.	CITY	\$49	\$0	\$4,567	\$0	\$0
SE-0424	SANITARY SEWERS IN MARINE WAY FROM CEDAR GROVE AVE. TO WINHA	CITY	\$438	\$0	\$676	\$0	\$0
SE-0432	ENGINEERING, ARCH., ADMINIS. & OTHER COSTS ETC., DEPT. OF EN	CITY	\$547	\$0	\$0	\$4,414	\$0
SE-0495	COMBINED SEWER OUTFALLS SOUTH OF 14TH STREET, MANHATTAN	CITY	\$35	\$0	\$0	\$10,587	\$0
SE-0552	STORM SEWERS CARSON ST. FROM SPRINGFIELD BLVD., 225TH ST. QU	CITY	\$1,200	\$90	\$1,500	\$0	\$0
SE-0569	RECON CEMENT PIPE, QUEENS	CITY	\$49	\$0	\$0	\$500	\$0
SE-0585	SANITARY SEWER IN NEPTUNE AVE, BKLYN	CITY	\$3,429	\$4,000	\$0	\$0	\$0
SE-0610	PROGRAMMATIC RECONSTRUCTION OF CEMENT PIPE SEWERS, BKLYN	CITY	\$12	\$0	\$0	\$0	\$0
SE-0716	LAND ACQUISITION, STORM WATER MANAGEMENT, STATEN ISLAND	CITY	\$17	\$0	\$0	\$0	\$0
SE-0723	CITYWIDE MAPPING OF SEWER SYSTEM	CITY	\$32,538	\$10,424	\$15,000	\$0	\$0
SE-0727	CONSTRUCTION OF STORM SEWERS IN ROCKAWAY BOULEVARD, QUEENS	CITY	\$6,100	\$1,284	\$0	\$0	\$37,800
SE-0734	CONSTRUCTION OF SANITARY SEWERS IN RICHARD AVENUE, STATEN IS	CITY	\$2,041	\$7,002	\$0	\$0	\$0
SE-0740	CONSTRUCTION OF SANITARY SEWERS IN ROCKLAND AVENUE, STATEN I	CITY	\$0	\$0	\$20	\$0	\$0
SE-0750	CONSTRUCTION AND RECONSTRUCTION OF CATCH BASINS, CITYWIDE	CITY	\$0	\$0	\$0	\$7,764	\$0
SE-0751	CONSTRUCT SANITARY SEWERS IN CHESTER AVE., STATEN ISLAND	CITY	\$953	\$3,010	\$6,760	\$5,898	\$5,788
SE-0754	RECONSTRUCTION OF COMBINED SEWERS IN 10TH AVE, BROOKLYN	CITY	\$307	\$0	\$6,104	\$0	\$0
SE-0758	GUNTING OF SEWERS, CITYWIDE	CITY	\$4,087	\$5,000	\$0	\$0	\$0
SE-0761	STORM SEWER CONSTRUCTION IN CHESTER AVE, STATEN ISLAND	CITY	\$0	\$0	\$4,618	\$0	\$0
SE-0763	SANITARY SEWERS IN CLERMONT AVE., STATEN ISLAND	CITY	\$4	\$0	\$0	\$0	\$0
SE-0764	STORM SEWERS IN CLERMONT AVE, STATEN ISLAND	CITY	\$29	\$0	\$0	\$0	\$0

Project ID	Project Description	City	Estimate	Fund	Balance
SE-0767	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$3		\$0
SE-0768	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$2,513		\$0
SE-0772	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$46		\$0
SE-0774	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$233		\$0
SE-0775	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$0		\$6,053
SE-0776	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$0		\$6,508
SE-0777	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$14,917		\$0
SE-0778	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$12,680		\$0
SE-0779	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$2,413		\$0
SE-0780	IMPROVEMENTS TO PROPERTY USED BY DEPARTMENT FOR THE AGING, C	CITY	\$762		\$0
SE-0785	RECONSTRUCT SANITARY SEWER IN JAMAICA AVE AREA, QUEENS	CITY	\$1,562		\$0
SE-0789	STORM SEWER IN FORMER JWS AREA, QUEENS	CITY	\$113		\$0
SE-0790	STORM SEWER IN B. 63RD STREET, QUEENS	CITY	\$0		\$11,761
SE-0791	STORM SEWER IN BROOKVILLE- EDGEWOOD TRIANGLE, QUEENS	CITY	\$0		\$4,843
SE-087HW	COMBINED SEWERS IN PAULDING AVENUE, BRONX	CITY	\$0		\$0
SE-0844	SEWER CONTRACTS IN CONJUNCTION WITH DOT WORK	CITY	\$15,027		\$0
SE-1000	PRIVATE PORTION FOR HIGHWAY PROJECTS, CITYWIDE	CITY	\$14,614		\$4,538
WM-0001	CONSTRUCTION OF SEWER PROJECTS, CITYWIDE	NON CITY	\$250		\$0
WM-0006	WATER MAIN EXTENSIONS	CITY	\$22		\$0
WM-0011	TRUNK MAIN EXTENSIONS AND IMPROVEMENTS TO PUMPING PLANTS A B	CITY	\$1,181		\$0
WM-0030	THE CONSTRUCTION OF CROTON INFLTRATION PLANT	CITY	\$58,933		\$62,648
WM-0030	IMPROVEMENTS TO STRUCTURES INCL. EQUIP. ON WATER SHEDS OUTSI	CITY	\$26,112		\$110,124
WM-0030	WATER SUPPLY IMPROVEMENTS, CITYWIDE	CITY	\$1,463,452		\$58,325
WM-0105	HUNTS POINT WATER POLLUTION CONTROL PROJECT	NON CITY	\$584,430		\$267,131
WP-0056	PORT RICHMOND WATER POLLUTION CONTROL PROJECT	CITY	\$3,109		\$115,763
WP-0101	WARD'S ISLAND WATER POLLUTION CONTROL PROJECT	CITY	\$3,974		\$25,000
WP-0103	WARD'S ISLAND WATER POLLUTION CONTROL PROJECT	CITY	\$20,704		\$318,264
WP-0112	RECONSTRUCTION OF WATER POLLUTION CONTROL PROJECTS	NON CITY	\$0		\$0
WP-0136	OAKWOOD BEACH WATER POLLUTION CONTROL PROJECTS	CITY	\$35,332		\$13,320
WP-0152	RED HOOK WATER POLLUTION CONTROL PROJECT	CITY	\$16,543		\$13,262
WP-0164	NORTH RIVER WATER POLLUTION CONTROL PROJECT	CITY	\$98,466		\$35,000
WP-0169	COMBINED SEWER OVERFLOW ABATEMENT FACILITIES, CITYWIDE	CITY	\$2,563		\$0
WP-0169	COMBINED SEWER OVERFLOW ABATEMENT FACILITIES, CITYWIDE	CITY	\$20,130		\$0
WP-0206	TWENTY SIXTH WARD WATER POLLUTION CONTROL PROJECT	CITY	\$84,627		\$0
WP-0235	SPRING CREEK AUXILIARY WATER POLLUTION CONTROL PROJECT	NON CITY	\$50		\$11,500
WP-0237	UPGRADE BOWERY BAY WATER POLLUTION CONTROL PROJECT	CITY	\$1,107		\$117,095
WP-0239	ROCKAWAY WATER POLLUTION CONTROL PROJECT	CITY	\$2,215		\$145,411
WP-0247	UPGRADE JAMAICA WATER POLLUTION CONTROL PROJECT	CITY	\$288,642		\$0
WP-0249	UPGRADE TALLMANS ISLAND WATER POLLUTION CONTROL PROJECT	CITY	\$0		\$16
WP-0249	UPGRADE TALLMANS ISLAND WATER POLLUTION CONTROL PROJECT	CITY	\$21,867		\$246,070
WP-0269	CONSTRUCTION, RECONSTRUCTION OF PUMPING STATION/FORCE MAINS,	CITY	\$63,422		\$0
WP-0282	ENG., ARCH., ADMIN. AND OTHER COSTS, DEPT. OF WATER RESOURCE	CITY	\$14,844		\$71,200
WP-0283	UPGRADE NEWTOWN CREEK WATER POLLUTION CONTROL PROJECT	CITY	\$17,056		\$0
WP-0284	BIONUTRIENT REMOVAL FACILITIES	CITY	\$10,194		\$0
WP-0285	CITY-WIDE SLUDGE DISPOSAL FACILITIES	CITY	\$354,183		\$40,185
WP-0287	BIONUTRIENT REMOVAL FACILITIES, CITYWIDE	CITY	\$6,547		\$75,610
WP-0288	UPGRADE CONEY ISLAND WATER POLLUTION CONTROL PROJECT	CITY	\$120,092		\$93,767
W-0002	DELAWARE WATER SYSTEM (FIRST STAGE)	NON CITY	\$742		\$558,553
W-0005	ADDITIONAL WATER SUPPLY EMERGENCY AND PERMANENT	CITY	\$274		\$6,500
W-0010	CITY TUNNEL NO. 3 STAGE 1	CITY	\$37,754		\$0
W-0014	KENSICO - CITY TUNNEL	CITY	\$7,085		\$0
W-0015	RECONSTRUCTION OF CITY WATER TUNNEL NO. 1	CITY	\$24,313		\$10,103
Totals			\$34,110		\$0
Total City			\$0		\$0
			\$3,778,044		\$44,500
			\$3,535,607		\$7,500
			\$3,424,630		\$2,120,221
			\$3,733,778		\$2,588,442
					\$2,588,442

Total Non-City
Total Water Authority

\$45,066	\$110,977	\$3,000	\$0	\$0
\$3,712,023	\$3,381,007	\$3,083,269	\$2,120,221	\$2,588,442

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

x

In the Matter of the Application of
FREDERICK SCHMIDT, JAMES BRENNAN,
THOMAS CATAPANO, PETER ABBATE, JR.

Petitioners,

ORDER AND JUDGMENT
AND NOTICE OF ENTRY

against

EDWARD I. KOCH, Mayor of the City of
New York, RICHARD MENDES as Director of
the New York City Water Board, MARK
PAGE as Director of the New York City
Municipal Water Authority, and ROBERT
TIERNEY as Chairman of the New York City
Water Authority, and HARVEY SCHULTZ as
Commissioner of the New York City
Department of Environmental Protection,

Index No. 13138/89

Respondents.

x

PLEASE TAKE NOTICE that an Order and Judgment,
of which the attached is a copy, was duly entered and filed in
the office of the Clerk of the County of New York on July 24,
1989.

Dated: New York, New York
August 2, 1989

HAWKINS, DELAFIELD & WOOD
Attorneys for the
New York City
Water Board Respondents
Tierney and Mendes
67 Wall Street
New York, New York 10005
(212) 820-9300

To:

JAMES F. BRENNAN
Attorney for Petitioners
1663 10th Avenue
Brooklyn, New York 11215
(718) 788-7221

FREDERICK SCHMIDT
Petitioner Pro Se
85-14 86 Street
Queens, New York 11421

ROBERT ABRAMS
Attorney General of the
State of New York
Attorney for the State of New York
120 Broadway
New York, New York 10271
(212) 341-2019
Att: HARVEY BERMAN
Assistant Attorney General

WILKIE, FARR & GALLAGHER
Attorneys for the New York City
Water Authority Respondents
Paul Dickstein and Mark Page
153 East 43rd Street
New York, New York 10022
(212) 935-8000
Att: CHESTER J. STRAUB

PETER L. ZIMROTH
Corporation Counsel of the
City of New York
Attorney for Respondents
Koch and Schultz
100 Church Street
New York, New York 10007
(212) 566-5500

Att: DORON GOPSTEIN
First Assistant
Corporation Counsel

ROBERT KATZ
Assistant Corporation Counsel

JCO 11/91
1/10/89
15th

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x

In the Matter of the Application of
FREDERICK SCHMIDT, JAMES BRENNAN,
THOMAS CATAPANO, PETER ABBATE, JR.,

Petitioners,

- against -

**ORDER AND JUDGMENT
AND NOTICE OF ENTRY**

Index No. 13138/89

EDWARD I. KOCH, Mayor of the City of
New York, RICHARD MENDES as Director of
the New York City Water Board, MARK
PAGE as Director of the New York City
Municipal Water Authority, and ROBERT
TIERNEY as Chairman of the New York City
Water Authority, and HARVEY SCHULTZ as
Commissioner of the New York City
Department of Environmental Protection,

Respondents.

-----x

PLEASE TAKE NOTICE that an Order and Judgment, of
which the attached is a copy, was duly entered and filed in the office
of the Clerk of the County of New York on July 24, 1989.

Dated: New York, New York
~~July 25, 1989~~
Aug 1 1989

PETER L. ZIMROTH
Corporation Counsel of the
City of New York
Attorney for Respondents
Koch and Schultz
100 Church Street
New York, New York 10007
(212) 566-5500
1/11

By: DORON GOPSTEIN
First Assistant Corporation Counsel

ROBERT KATZ
Assistant Corporation Counsel

To: JAMES F. BRENNAN
Attorney for Petitioners
1663 10th Avenue
Brooklyn, New York 11215
(718) 788-7221

FREDERICK SCHMIDT
Petitioner Pro Se
85-14 86 Street
Queens, New York 11421

ROBERT ABRAMS
Attorney General of the
State of New York
Attorney for the State of New York
120 Broadway
New York, New York 10271
(212) 341-2019
Att: HARVEY BERMAN
Assistant Attorney General

W. CULLEN MacDONALD
HAWKINS, DELAFIELD & WOOD
Attorneys for the New York City
Water Board Respondents
Tierney and Mendes
67 Wall Street
New York, New York 10005
(212) 820-9300

CHESTER J. STRAUB
WILKIE, FARR & GALLAGHER
Attorneys for the New York City
Water Authority Respondents
Paul Dickstein and Mark Page
153 East 53rd Street
New York, New York 10022
(212) 935-8000

SUPREME COURT OF THE STATE OF NEW YORK - NEW YORK COUNTY

PART _____

PRESENT:

Hon. EVE M. PREMINGER *ice.*

Schmidt

— *against* —

Koch

INDEX NUMBER 13138/89

MOTION DATE _____

MOTION SEQ. NO. _____

TRIAL CAL. NO. _____

The following papers numbered 1 to _____ read on this motion to _____

Notice of Motion/Order to Show Cause - Affidavits - Exhibits _____

Answering Affidavits - Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Upon the foregoing papers it is ordered that ~~this motion~~ the cross motions by various respondents to dismiss the petition on the ground of laches are granted, in accordance with the Court's decision read into the record following oral argument on July 13, 1989.

This memorandum, when annexed to the transcript of the Court's July 13, 1989 decision, shall constitute the order and judgment of the Court.

FILED

JUL 24 1989

COUNTY CLERK'S OFFICE
NEW YORK

EVE M. PREMINGER

Dated

7/19/89

Not in S.C. Clerk's Office

SUPREME COURT OF THE STATE OF NEW YORK

IAS PART 26: COUNTY OF NEW YORK

-----x
APPLICATION BY FREDERICK SCHMIDT,
JAMES E. BRENNAN, THOMAS CATAPANO,
PETER ABBATE,

Petitioners,

For other judgment pursuant to
Article 78 of the CPLR

-against-

EDWARD I. KOCH, Mayor of the City of
New York; RICHARD MENDES, as Director
of the New York City Water Board;
MARK PAGE, as Director of the
New York City Municipal Water Authority;
and ROBERT TIERNEY, as Chairman of
the New York City Water Board; and
PAUL LICKSTEIN, as Chairman of the
New York City Water Authority; and
HARVEY SCHULTZ, as Commissioner of the
New York City Department of
Environmental Protection;

Respondents.

-----x
July 13, 1989

60 Centre Street
New York, New York 10007

BEFORE:

HONORABLE EVE PREMINGER, J.S.C.

Donna Evans,
Official Court Reporter

Index No

13138/89

1
2 A p p e a r a n c e s:

3 FREDERICK SCHMIDT, ESQ.
4 Petitioner Pro Se
5 85-14 86th Street
6 Queens New York 11421

7 BY: FREDERICK SCHMIDT, ESQ.,
8 JAMES F. BRENNAN, ESQ.,
9 of Counsel

10 ROBERT ABRAMS, ESQ.
11 Attorney General of the State of New York
12 For the State of New York
13 120 Broadway
14 New York, New York

15 BY: HARVEY M. LERMAN, ESQ.,
16 Assistant Attorney General

17 PETER L. ZIMROTH, ESQ.
18 Corporation Counsel
19 100 Church Street
20 New York, New York 10007

21 BY: DORON GOPSTEIN, ESQ.,
22 of Counsel
23
24
25

1
2 A p p e a r a n c e s (Continued):

3 WILLKIE, FARR & GALLAGHER, ESQS.
4 Attorneys for New York City Municipal
5 Water Finance Authority
6 153 East 53rd Street
7 New York, New York 10022

8 BY: CHESTER J. STRAUB, ESQ.,
9 of Counsel

10 HAWKINS, DELAFIELD & WOOD, ESQS.
11 Attorneys for Tierney, Mendes and
12 New York City Water Board
13 67 Wall Street
14 New York, New York 10005

15 BY: W. CULLEN MACDONALD, ESQ.,
16 of Counsel
17
18
19
20
21
22
23
24
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Proceedings

THE COURT: Good afternoon again.

The Court has heard argument from all of the parties, and has read the extensive record herein. Because of the cloud which this proceeding may cast upon past, pending and future bond offerings by the New York City Municipal Water Finance Authority, hereinafter referred to as the "Water Authority," and because I believe that the issues presented here are clear-cut and easily disposed of, the Court is prepared to immediately issue its decision.

This Article 78 proceeding is brought by several New York State Assemblymen, presumably in their capacity as state taxpayers. The petition alleges that any and all acts, contracts and obligations of the Water Authority and the respondent New York City Water Board, hereinafter the "Water Board," are unconstitutional and null and void, as violative of Article X, Section Five, Paragraph 1, and Article VIII, Section

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Two of the New York State Constitution.

The Water Authority and the Water Board were established in 1984 pursuant to Title 2-A of the Public Authorities Law, in furtherance of a plan fashioned by the Legislature for obtaining funds to finance the improvement and maintenance of the New York City water and sewer system. The Water Authority is empowered to borrow money and issue notes or bonds, to acquire real or personal property, and to enter into agreements with the City and the Water Board for financing of water projects; Public Authorities Law Section 1045-C.

The Water Board is a separate municipal instrumentality which is authorized to acquire or lease title to the water and sewer system from the City, and to establish and collect rents for the use of the water and sewer system, Public Authority Law Section 1045-G. A portion of these rents is paid over to the Water Authority to support the notes,

bonds or other obligations of the
Authority.

Title 2-A went into effect on July
24th, 1984. In each year since 1984, the
Water Authority has issued and sold
bonds, aggregating more than 2 billion
dollars, to finance various capital
improvements. The Water Board has
established and collected rents for water
and sewer users, including several
increases, the latest of which was
effective July 1, 1989.

In 1987, the Water Board instituted
a plan for the installation of water
meters, thousands of which have already
been installed.

Apparently because of unhappiness
with the recent 24 percent increase in
water and sewer rates and the plan to
equip City residences with water meters,
petitioners now challenge the
constitutionality of Title 2-A of the
Public Authorities Law, the Water
Authority and the Water Board.

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The petition specifically seeks,

(1) to preliminarily and permanently enjoin the respondents from implementing any further water and sewer service rate increases, and,

(2) a declaration as to the unconstitutionality of the Water Authority and the Water Board.

The respondents each move and cross-move to dismiss the petition as follows:

(1) Respondents Water Board, Richard Mendes and Robert Tierney, Executive Director and Chairman, respectively, of the Water Board, move to dismiss pursuant to CPLR Section 217 and 7804(f), on the grounds of failure to state a cause of action, statute of limitations, and laches.

(2) Respondents Paul Dickstein and Mark Page, Chairman and Executive Director, respectively, of the Water Authority, move to dismiss pursuant to CPLR 3211(a)(7) and 3211(a)(2), and

Public Authorities Law Section 1045-i(7),
on the grounds of failure to state a
cause of action, lack of subject matter
jurisdiction and laches.

(3) Respondents Mayor Koch and
Harvey Schultz, Commissioner of the New
York City Department of Environmental
Protection, cross-move to dismiss
pursuant to CPLR 3211(a)(5), 3211(a)(7),
and Section 7804(f), for failure to state
a cause of action and laches.

The Court notes that certain
Assemblymen have been given leave to join
in the proceeding as party petitioners.
The Court further notes that a brief was
received from the Office of the Attorney
General, as intervenor, in support of the
position of the respondents.

The motion by respondents Dickstein
and Page to dismiss for lack of subject
matter jurisdiction is denied. Public
Authorities Law Section 1045-i concerns
only the procedure for challenging the
constitutionality of the July 1, 1985

Proceedings

agreement among New York City, the Water Board, and the Water Authority relating to the operation of the City's water and sewer system. The petition does not directly contest the validity of that agreement. There is no basis for respondents' arguments that Section 1045-i should be extended to this proceeding.

The motion by the Water Board respondents to dismiss the petition as barred by the statute of limitations is also denied. It is true that it has been almost five years since the enactment of the acts which establish the Water Board and Water Authority, and two years since the adoption of regulations requiring the installation of water meters.

Ordinarily, CPLR 217 establishes a four month limitations period in Article 78 proceedings. There is, however, no statute of limitations applicable to an attack on the constitutionality of a statute or the act of a governmental body

pursuant to such statute.

As the Appellate Division stated in Lutheran Church in America v. City of New York, 27 AD2d 237, "the exercise of a power defense against the Constitution may be attacked at any time." Although the Appellate Division noted that a challenge to the constitutionality of a statute is properly brought as an action for declaratory judgment and not, as here, as an Article 78 proceeding, under CPLR 107(c) this Court may, and hereby does, convert this proceeding into an action for declaratory judgment. See Matter of Friedman v. Cuomo, 349 NY2d 81 (1976).

The motions by the various respondents to dismiss the petition for failure to state a cause of action are denied. For the purpose of such motions, the allegations of the petition must be deemed true and considered in the light most favorable to petitioners.

Lichtensteiger v. Housing and Development

Administration, 40 AD2d 810; Board of Education of Mt. Vernon v. Allen, 32 AD2d 985. When the petition here is given the required liberal construction, the Court finds that it sufficiently states a cause of action against the respondents.

The remaining ground offered by all of the respondents for dismissal of the petition is the alleged laches on the part of the petitioners. Laches, which is unexcused delay prejudicial to the opposing party, may bar an action or proceeding without regard to the applicability of the Statute of Limitations, and has been held applicable to constitutional challenges. See Burns v. Egan, 117 AD2d 38, appeal dismissed 68 NY2d 806; New York Public Interest Research Groups, Inc. v. Levitt, 62 AD2d 1074, appeal dismissed. 46 NY2d 849.

This Court has never seen a clearer example of laches than appears from the undisputed facts in this case.

Petitioners waited five years to commence

this proceeding. During that period, the Water Authority has issued and sold over 2 billion dollars of bonds to the public in several series of offers. The Water Board has increased water and sewer charges on four separate occasions, and thousands of water meters have been installed pursuant to the metering regulations adopted by the Water Board.

To now undo any, much less all, of these acts would wreak havoc in the financial community and the public at large. Petitioners, some of whom even voted in favor of the legislation they now seek to challenge, offer not one iota of an excuse for their delay.

There can be no question that this lack of diligence on the part of petitioners in bringing this proceeding, and the prejudice which would result therefrom, constitutes laches which requires dismissal of this petition. See Burns v. Egan and New York Public Interest Research Group, Inc. v. Levitt,

supra.

Accordingly, those portions of the respondents' motions which seek dismissal of the petition as barred by laches, are granted.

However, lest it be concluded that this proceeding is being dismissed on the basis of some legal technicality, the Court states for the record that, were it to consider the merits of the petitioner, the claims therein would be dismissed as lacking in substance.

Article X, Section Five of the State Constitution prohibits any public corporation from being given both the power to contract indebtedness and to collect fees for a service formerly supplied by a City. These powers as they relate to the New York City water and sewer system are, in fact, split between the Water Authority and the Water Board. No member of the Water Authority may sit on the Water Board. Public Authority Law Section 1043-f. The fact that the Mayor

plays a large role in the designation of the members of both boards is legally insignificant as is the fact that offices may or may not be in the same building. The statutory scheme complies with the letter of the constitutional requirement, which is sufficient. See Hotel Dorset Co. v. Trust for Cultural Resources of New York, 46 NY2d 358, 1978; Comerski v. City of Elmira, 308 NY 248, 1955.

Additionally, a review of the legislative history of Article X, Section Five, as it concerns the problems which surrounded the Buffalo Sewer Authority in the early 1930s, demonstrates that the statutes involved here unlike there, also comport with the spirit of Article X of the Constitution, since they in no way impinge upon the areas which the drafters of Article X sought to establish as "off limits."

Article VIII, Section Two of the State Constitution provides that no

indebtedness shall be contracted by any city unless such city shall have pledged its faith and credit for the payment of principal and interest. The bonds issued by the Water Authority do not constitute indebtedness of New York City, since there is a statutory disclaimer that New York City is not liable on the bonds. There can be no -- there can thus be no violation of Article VIII. See Wein v. City of New York 36 NY2d 610, 1975.

Finally, the Court must comment on petitioners' claim, raised for the first time in oral argument, that if the petition here is denied, no remedy exists for challenging any particular action of the Water Authority or the Water Board, with respect to any allegedly arbitrary actions or any actions beyond their powers.

Nothing decided here today dilutes in any way the right of any individual to challenge any act of a governmental agency as arbitrary, capricious or in

excess of the agency's powers.

In accordance with the foregoing,
the petition and this proceeding are
hereby dismissed. All applications for
injunctive relief are denied. This shall
constitute the order and judgment of the
Court.

Thank you.

=====

Certified to be a true and correct
transcript of the stenographic minutes
taken herein.

Donna Evans, Inc. R. T. Reporter

DONNA EVANS, Official Court Reporter

In the Matter of the Application of FREDERICK SCHMIDT, JAMES BRENNAN,
THOMAS CATAPANO, PETER ABBATE, JR.

Petitioners

- against -

EDWARD I. KOCH, Mayor of the City of New York, RICHARD MENDES as
Director of the New York City Water Board, MARK PAGE as Director
of the New York City Municipal Water Authority, and ROBERT TIERNEY
as Chairman of the New York City Water Authority, and HARVEY SCHULTZ
as Commissioner of the New York City Department of Environmental
Protection,

Respondents

ORDER AND JUDGMENT
AND NOTICE OF ENTRY

Hawkins, Delafield & Wood

Attorneys for

Office and Post Office Address, Telephone

67 Wall Street

Borough of Manhattan

New York, N.Y. 10005

Telephone (212) 820-9311

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

EXHIBIT C



New York City Municipal Water Finance Authority

75 Park Place, 6th Floor

New York, NY 10007

Tel. (212) 788-5889

Fax. (212) 788-9197

<http://www.nyc.gov/nyw>

June 27, 2008

Carmen Maldonado
Office of the State Comptroller
123 William Street, 21st Floor
New York, NY 10038-3804

Re: Draft Report on "Selected Financial and Management Practices"

Dear Ms. Maldonado:

The above-referenced draft report was received by the New York City Municipal Water Finance Authority (the "Authority") on May 29, 2008, following the conclusion of your audit which commenced in November 2006. As the report correctly notes, the Authority was created by New York State ("State") law in 1984 at the request of the City of New York (the "City"). Its powers and duties are limited to the financing of the City's water and sewer system (the "System") and are set forth in the New York City Municipal Water Finance Authority Act (the "Act").

The Authority is housed within the offices of the City's Office of Management and Budget ("OMB") and is overseen by a statutorily-created Board of Directors consisting of three *ex-officio* City officials, an *ex-officio* State official, two appointees of the Mayor of the City and one appointee of the Governor of the State. The Act effectively provides that no board action will be taken without the participation of at least two of the three City *ex-officio* board members. Pursuant to the Act, the Authority efficiently and cost-effectively manages the capital financing program of the System, which includes managing a portfolio of over \$19 billion of outstanding bonds and, for the current fiscal year, issuing over \$2 billion of bonds. The Authority has achieved a credit rating higher than that of the City of New York, which allows the Authority to issue bonds at lower interest rates, which is ultimately a savings for ratepayers. The Authority performs these services at minimal cost to the ratepayers and with limited overhead, including only five full-time-equivalent employees. We note however that, contrary to the assertions in your report, only a small portion of the Authority's operating budget is for professional consulting services. The majority of the budget is for fees to the New York State Environmental Facilities Corporation and to banks issuing letters of credit and liquidity facilities, in each case as required in connection with the issuance of Authority bonds. Additionally, we note that your report states that surplus revenues of the Water Board are to be used by the Authority towards its debt obligations. This is not accurate. While these funds may be used to pay debt service, pursuant to the Financing Agreement (incorrectly referred to in your report as the "Memorandum of Agreement") by and among the City, the Authority and the Water Board, the Authority can choose to apply the funds to any of the enumerated purposes set forth in the Financing Agreement, including pay as you go capital.

The following are our responses to your recommendations.

Policies and Procedures. The Authority is in the process of developing additional written policies and procedures for key operational areas, as your report proposes.

Procurement Guidelines. The Authority's procurement guidelines are appropriate for a small entity such as the Authority which enters into very few contracts each year. The Authority's procurement guidelines contain provisions covering requests for proposals, sole source procurements, price negotiations and competitive sealed proposals, contrary to the assertion in your report. The guidelines also set standards for small purchases. These guidelines are adequate to ensure proper procurement processes while allowing the Authority to carry out its procurements in an efficient manner. There is no need to amend our current procurement guidelines.

Documentation of Reasons for Contractor Selections. The Authority's contractor selections (except for small purchases) are made by a committee consisting of Authority staff and representatives of the City Comptroller and Mayor. Contracts are also approved by the Authority's Board of Directors. All of the Authority's contracts have been unanimously approved by all such parties, including representatives of the separately-elected officials. The Authority keeps records of all proposals submitted and has explained the rationale for each contractor selection about which you have inquired.

Written Contracts. The Authority always enters into written contracts with vendors, unless purchases fall within the small purchase category such as purchases of office supplies. Your report has identified one instance in which your report states, incorrectly, that the Authority did not enter into a written contract. In that case, your report states that the Authority obtained printing services "from a number of vendors that printed materials for bond issuances." The Authority selects only one financial printer following a request for proposals process. The Authority uses that printer for a period of years, after which a new request for proposals process is issued to select a printer for the subsequent period. The request for proposals includes a detailed scope of work and specifications along with terms and conditions for the completion of work. Proposers submit bids based on the specifications, terms and conditions within the request for proposals. When the Authority selects a printer, a legal and binding contract exists based on the detailed specifications, terms and conditions provided by the Authority and the fees bid by the printer. No additional writing is necessary to form a valid, legal and binding contract. Furthermore, because all of the terms of the engagement are spelled out within the existing documents between the parties, an additional document would be superfluous and would not provide any legal benefit to the Authority.

MacBride Principles. The Authority now includes the MacBride Principles as an attachment to its contracts.

Investment Compliance Reports. Your report states correctly that the Authority did not receive separate investment compliance reports that auditors were required to deliver under the Authority's auditor contract. The Authority has received that report for

fiscal year 2007 and will ensure that it continues to receive the report in the future. However, your report incorrectly states that the Authority was charged for the investment compliance reports when they were not delivered. The Authority paid its auditors only for the financial statement audit, which did not include the investment compliance report. Had the auditors completed that report, it would have been billed separately at the hourly rates specified in their contract.

Hiring Policies. The Authority has agreed to comply with the personnel policies of OMB. Your report incorrectly states that the Authority did not comply with such policies in connection with the hiring of its Executive Director. Although OMB's personnel policies generally require that open positions be advertized, the agency has discretion to use other means of selecting a candidate when the situation warrants. In this case, less than one year prior, the Authority had conducted a nationwide search for an officer to assume primary responsibility for running the Authority. This search involved advertizing and interviewing many candidates for the position. Based on its experience with that recent search and after receiving new resumes from senior officials at State agencies, the Authority determined that it would not be fruitful to repeat a lengthy search process. The Authority interviewed two candidates and selected a highly-qualified individual with extensive experience at one of the largest municipal borrowers in the State. Therefore, this process complied with OMB policy and was appropriate under the circumstances. Please see the attached memo from OMB's Director of Personnel concurring that the hiring procedure followed by the Authority did not violate OMB's personnel policies.

In addition, your report incorrectly states that the Executive Director was appointed prior to action by the Authority's Board of Directors. Although the candidate began working at the Authority as a staff member pending approval by the Board, he was not appointed Executive Director until the Board took action to appoint him.. Furthermore, his continued employment with the Authority was contingent on his appointment as Executive Director by the Board.

Directive 1 Questionnaire. Your report correctly states that the Authority did not complete the City Comptroller's annual questionnaire referred to as Directive 1 and that it did not file the required annual investment report and annual personnel report with the State. The Authority completed such questionnaire and reports commencing with fiscal year 2007 and will continue to do so in the future.

Project Cost Review. The Authority has entered into agreements with the City and the New York City Water Board that define the role of each party in connection with the operation and financing of the water and sewer system and the rate setting with respect thereto. Your report states incorrectly that the Authority's agreement with the City "only calls for the Authority to sell bonds." In fact, the Financing Agreement among the Authority, the City and the New York City Water Board sets forth in detail the duties and obligations of the Authority. Section 3.2 of that agreement requires that the Authority pay the City amounts that it has certified to reimburse the City for the cost of water projects. The Authority's staff is made up of finance professionals. The Authority

is not qualified, and under its agreement with the City is not permitted, to substitute its own judgment for that of the City as to whether the costs of water projects are reasonable. The Authority is entitled, and in fact is required, to rely on the professional determinations as well as the procurement, internal controls and accounting systems of the City of New York.

Telephone Charges. In 2005, the Authority purchased eight Blackberry devices for members of its staff and members of OMB staff who allocate time to work for the Authority. You requested authorization forms for those purchases and received such forms for six of the eight devices. The other two devices were for the Comptroller and the Assistant Comptroller of the Authority, positions at a level consistent with other personnel at the Authority and OMB that were entitled to receive Blackberry devices. The costs of the devices attributable to time spent by staff members on OMB matters has now been charged by the Authority to OMB. However, this represents only a portion of the total cost of \$6,800 for all the devices. Your suggestion that the entire costs of these devices be charged to OMB is inappropriate. The Authority will not charge OMB for devices that are not attributable to OMB work.

Public Notice of Board Meetings. The Authority has always posted notice of Board meetings. The Authority now posts notice of all committee meetings as well, even when they are held in conjunction with Board meetings where a notice has been posted.

Board Member Training. The Authority Budget Office ("ABO") was created by State law to oversee the implementation of the Public Authorities Accountability Act ("PAAA"), including the PAAA's Board Member training requirement. ABO Policy Guidance No. 06-01 states that Board Members should participate in training by the end of the fiscal year beginning in 2006 (i.e., by June 30, 2007, in the case of the Authority). That Guidance further provides that, although the ABO expects that best efforts will be made to complete training by that date, it understands that full compliance may not be possible until, in the case of the Authority, by June 30, 2008. As of June 30, 2007, six of the required ten Board Members and delegates had completed training. The four who had not completed training by that date submitted letters to the Authority stating that they had made best efforts to attend training, but were unable to do so and further stated that they would attend training by the ABO-established deadline. All Board Members and delegates who are required to attend training have now completed the training, in advance of the June 30, 2008 deadline. *Ex-officio* Board Members are permitted by law to delegate their responsibilities to "a deputy or assistant in their respective departments or offices...." (Public Authorities Law Section 1045-c(4)). The ABO has determined that "[b]oard members are not required to participate in training only if they have effectively delegated their responsibilities as a board member to a designee." (ABO "Frequently Asked Questions") Therefore, it is the delegate, rather than the *ex-officio* Board Member who is required to attend training. The Authority does not take issue with the ABO's conclusion; it seems appropriate that the individuals who are designated to attend board meetings would be the ones to participate in training.

Audit and Governance Committees. The Authority established audit and governance committees when required under applicable law.

Minutes of Committee Meetings. The Authority has always prepared minutes of committee meetings in accordance with the New York State Public Officers Law. Minutes are not required when a committee takes no action.

Audit Committee Reports. The Authority's Audit Committee filed an annual report of its activities with the City Comptroller for calendar year 2007 and will continue to do so in the future.

Annual Budgets. The Authority's Board adopted budgets for fiscal years 2008 and 2009 and will continue to do so in the future.

Very truly yours,


Mark Page